



# BOARD OF PAROLE HEARINGS



ADMINISTRATIVE DIRECTIVE NO: 2013-07

**SUBJECT: GUIDANCE ON ASSESSING THE GROWTH AND MATURITY OF YOUTH OFFENDERS AT PAROLE SUITABILITY HEARINGS**

## INTRODUCTION

Penal Code sections 3051 and 4801, subdivision (c), which will become effective January 1, 2014, provide the Board with direction on assessing the growth and maturity of youth offenders at parole suitability hearings. This directive provides guidance on handling parole suitability hearings for qualified youth offenders under the new law.

## LEGAL AUTHORITY

Newly enacted **Penal Code section 3051(f)(1)** directs that, "In assessing growth and maturity, psychological evaluations and risk assessment instruments, if used by the board, shall be administered by licensed psychologists employed by the board and shall take into consideration the diminished culpability of juveniles as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the individual."

**Penal Code section 4801(c)** further directs that, "When a prisoner committed his or her controlling offense . . . prior to attaining 18 years of age, the board, in reviewing a prisoner's suitability for parole pursuant to Section 3041.5, shall give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law."

When enacting **Penal Code sections 3051(f)(1) and 4801(c)**, the Legislature specifically found and declared that "as stated by the United States Supreme Court in *Miller v. Alabama* (2012) 183 L.Ed.2d 407, 'only a relatively small proportion of adolescents' who engage in illegal activity 'develop entrenched patterns of problem behavior,' and that 'developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds,' including 'parts of the brain involved in behavior control.' The Legislature recognizes that youthfulness both lessens

a juvenile's moral culpability and enhances the prospect that, as a youth matures into an adult and neurological development occurs, these individuals can become contributing members of society. The purpose of this act is to establish a parole eligibility mechanism that provides a person serving a sentence for crimes that he or she committed as a juvenile the opportunity to obtain release when he or she has shown that he or she has been rehabilitated and gained maturity, in accordance with the decision of the California Supreme Court in *People v. Caballero* (2012) 55 Cal.4th 262 and the decisions of the United States Supreme Court in *Graham v. Florida* (2010) 560 U.S. 48, and *Miller v. Alabama* (2012) 183 L.Ed.2d 407. Nothing in this act is intended to undermine the California Supreme Court's holdings in *In re Shaputis* (2011) 53 Cal.4th 192, *In re Lawrence* (2008) 44 Cal.4th 1181, and subsequent cases. It is the intent of the Legislature to create a process by which growth and maturity of youthful offenders can be assessed and a meaningful opportunity for release established."

In the event parole is denied, **Penal Code section 3051(g)** states that, "If parole is not granted, the board shall set the time for a subsequent youth offender parole hearing in accordance with [Marsy's Law]. In exercising its discretion pursuant to [Marsy's Law], the board shall consider the factors in subdivision (c) of Section 4801."

#### **DIRECTIVE**

At a parole suitability hearing for a qualified youth offender, all of the following shall occur:

- (1) In reviewing a prisoner's suitability for parole, the hearing panel shall give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law; and
- (2) If parole is not granted, the hearing panel shall set the time for a subsequent youth offender parole hearing in accordance with Marsy's Law, taking into consideration the same youth offender characteristics described above.

*This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the legal office at (916) 324-7604.*

APPROVED BY:

  
JENNIFER P. SHAFFER  
Executive Officer, BPH

DATE: 12/17/2013